



DATE:	August 25, 2015
APPROVED BY:	Russell D. Schaedlich, Secretary

MINUTES OF THE LAKE COUNTY PLANNING COMMISSION

July 28, 2015

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chair Zondag called the meeting to order at 5:31 p.m.

ROLL CALL

The following members were present: Messrs. Brotzman, Morse, Schaedlich, Walker (alt. for Malecek), Zondag and Ms. Pesec. Legal Counsel present was Assistant Prosecutor Michael DeLeone. Planning and Community Development Staff present were Mr. Radachy, Ms. Jordan and Ms. Truesdell. Assistant Prosecutor Michael DeLeone attended.

MINUTES

Mr. Morse moved and Ms. Pesec seconded the motion to accept the June 2015 minutes.

All voted "Aye".

FINANCIAL REPORT

Mr. Brotzman moved and Ms. Pesec seconded the motion to accept the June 2015 Financial Report.

All voted "Aye".

PUBLIC COMMENT

There was no comment from the public.

LEGAL REPORT

There were no legal issues to report.

DIRECTOR'S REPORT

Mr. Radachy said that Cleveland State University will be sending a Planning Intern to our office. Meg Legerski will be assisting with the Retail Trade Study.

ANNOUNCEMENTS

There were no announcements.

SUBDIVISION REVIEW

Painesville Township – The Estate at Kallay Farms, Preliminary Plan, 76 lots, 22.095 Acres

The Estate at Kallay Farms is located south of Mentor Avenue across from Hellriegel's Restaurant in Painesville Township. William Dawson of Eye-Will Development, Inc. is the developer and David Novak of Barrington Consulting Group, Inc. is the engineer. The development is a FPUD with 76 sublots on 22 acres.

Staff presented information on the location, the plan, and stipulations via power point presentation.

The Staff Report of the Preliminary Plan follows:

Preliminary Plan Stipulations:

1. An accurate scale must be provided on the Preliminary Plan. *Art. III, Section 3(D)(1)(d)*
2. Dimensions for open space must be provided on the Preliminary Plan. *Art. III, Section 3(D)(1)(f)*
3. Power transmission poles and lines must be shown on the Preliminary Plan. *Art. III, Section 3(D)(1)(m)*
4. The lot width at building lines must be shown for lots with side yards that are not 90°. *Art. III, Section 3(D)(1)(n)*
5. Proposed street names must be included on the Preliminary Plan. *Art. III, Section 3(D)(1)(r)*
6. Utility easements must be shown on the Preliminary Plan. *Art. III, Section 3 (D)(1)(u)*

Design Stipulations:

1. The maximum length for a cul-de-sac fronting sublots of widths averaging less than 150 feet is 1,000 feet. The proposed cul-de-sac exceeds 2,000 feet. *Art. IV, Section 3(B)(10)*
2. The outside pavement diameter and ROW line diameter of the cul-de-sac are not easily distinguishable, as the scale is inaccurate and dimensions are not provided. The plan must include dimensions for the cul-de-sacs and fulfill the requirements of the Lake County Subdivision Regulations. *Art IV, Section 3(B)(10)*

3. Utility easements of at least 15 feet in width shall be provided along each side of the ROW running parallel to the centerline of the right-of-way. *Art. IV, Section 4(A)(1)*
4. Easements shall be provided for local drainage purposes. *Art. IV, Section 4(A)5)*
5. Rear yard drains are required for every subplot. *L.C. Engineer*
 - a. Easements shall be established for drainage ditches or storm sewers that are not located in the dedicated ROW, including yard drain easements for sublots that share yard drains. *Art. V, Section 4 (A)*

Design Comments:

1. The proposal is acceptable to ODOT. ODOT is waiting on a final signed permit application from the owner and detailed drive plans. *ODOT*
2. Fire hydrants shall be required at the entrance and end of all cul-de-sacs 400 feet in length or longer. There is not a hydrant located at the entrance of the subdivision. *Art. V, Section 9(A)*

Technical Stipulations:

1. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*
2. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District.
Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C
3. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*
4. The site will require a filing to Ohio EPA with a Storm Water Pollution Prevention Plan and an application to the Lake SWCD for a review of the plan. *L.C. SWCD*
5. The submitted ESC plan must be approved by the Lake County Soil and Water Conservation District prior to the start of any soil-disturbing activity. The owner of said land shall notify the Lake SWCD no less than two (2) working days before the start of soil-disturbing activity. The owner shall also notify the Lake SWCD no later than two (2) working days after project completion. *L.C. SWCD*
6. A preconstruction conference will be necessary. The owner must also perform self-inspections of the site as required by EPA. *L.C. SWCD*

7. Details on the basin designs and outlets will be necessary and note any basins acting as sediment basins will need to be identified and Skimmer devices installed and maintained the entire time that lots are under construction. *L.C. SWCD*
8. Pavement section shall be designed using ODOT standards. *L.C. Engineer*
9. ODOT right-of-way permit required. *L.C. Engineer*
10. Traffic signs shall meet OMUTCD. *L.C. Engineer*
11. Stormwater manangement shall meet Lake County requirements. *L.C. Engineer*
12. Two existing sanitary connections must be properly abandoned. *L.C. Utilities*

Technical Comments:

1. The site lends itself to a conservation style development style rather than a "cookie cutter style" to minimize impacts. *L.C. SWCD*
2. Several trees (Pin Oaks) near Rt. 20 are well over 200 years old near the existing structures and are approaching Ohio Big Tree Record status and may be some of the oldest known Pin Oaks in Lake County. Efforts to protect such resources are always recommended as they appear to be healthy trees. *L.C. SWCD*
3. Tyner loamy sand (TyB) soil is suitable for building sites. The possible contamination of ground water limits the use of this soil for sanitary facilities. Lawn seeding is difficult to establish during the drier part of the year. Lawns should be seeded early in spring; if seeded during dry periods, they should be mulched and watered. *L.C. SWCD*
4. Painesville fine sandy loam (Pa) soil: The seasonal high water table severely limits the use of this soil for sanitary facilities and for building sites. Houses without basements are better suited to this soil than those with basements. Mechanical measures may be used to help prevent wet basements. Local roads can be improved by using artificial drainage and suitable base material. Wetness also limits use of this soil for recreation. *L.C. SWCD*
5. Drainage and stormwater management are noted as concerns. *Painesville Township Trustees*
6. Per the Utility Department's standards or regulations, there are no deficiencies at this time. Additional comments could be forthcoming when a detailed utility plan is submitted and reviewed. *L.C. Utilities*
7. There is a hydrant on the north of the entrance to the subdivision on Rt 20, then another one 300' into the development, given the buildings don't start until about 200' down the road and within 100+' of that hydrant, we are OK with that spacing. The general hydrant spacing seems to be about 400 feet per Aqua Ohio. *Painesville Township Fire Chief*
8. Cul-de-sacs are within Ohio 2011 Fire Code (96'). *Painesville Township Fire Chief*

Ms. Jordan and Mr. Radachy showed the subdivision location and relation to the surrounding area. They will have to ask for a street length variance. The street separates into two streets and each of those end in cul-de-sacs.

Ms. Jordan pointed out that there will be a need for a block length variance. She said that ODOT is waiting on a final signed permit application from the owner and detailed drive plans and that an ODOT right-of-way permit will be required. Two existing homes that front on Mentor Avenue will be demolished and the sanitary connections from the two existing homes must be properly abandoned.

Mr. Dave Novak introduced himself and said that the subdivision had been approved long ago. He said that the subdivision will be done in two phases. The first phase will go to the cut off where the entry road separates into two. This will be at the "Y" near subplot 15 on one side and subplot 59 or 60 on the other side. The width of the lots was negotiated with Painesville Township. There was no comment from the Fire Department on accessibility. These cul-de-sacs are very common.

Mr. Brotzman asked about interconnectivity between Kallay Farms and adjacent subdivisions.

Mr. Novak said that they tried to negotiate with New Haven Colony, the condominium association to the west, but there was no advantage to interconnect with them via a road between the two subdivisions. The Fire Chief and the Service Department said it was not necessary.

Mr. Morse thanked Mr. Radachy for the wetlands study. Mr. Radachy stated that the wetlands study was provided by the developer and his engineers.

Mr. Brotzman commented that this was an old agricultural area and old drainage tiles may still exist.

Mr. Novak said they realize that as they go back into the property and have seen the old nursery stock.

Members asked Mr. Radachy to add a technical Comment about the drainage tiles. He said he would add it as a stipulation.

Ms. Pesec moved and Mr. Walker seconded the motion to approve the Preliminary for The Estate at Kallay Farms in Painesville Township with 76 lots on 22.095 acres.

All voted "Aye".

SUBDIVISION ACTIVITY REPORT

Mr. Radachy gave the following update:

- The Villas of Lake Erie Shores has 30 lots on a private street. The Preliminary Plan was not accepted because it lacked wetland delineation. This should be in for next month.
- Mountainside Farms 5 should go into maintenance soon.
- No subdivisions were recorded this month.

LAND USE AND ZONING REVIEW

Madison Township – Text Amendment to Sections 101 adding definitions for viticulture, and Sections 104, 105, and 122 adding winery as accessory use

Mr. Radachy said that Madison Township is proposing the addition of definitions for viticulture and winery to Section 101, Definitions, and winery as a use in Sections 104.1 (A-1, Agriculture), 105.1 (A-R, Agriculture Residential) and 122.2 (S-1, Green Area). With these additions, Madison Township also proposes the renumbering of sections.

There have been issues developing over the years with the two types of wineries within the Township. One type includes traditional wineries that grow grapes, make wine, and sell it. These wineries are typically small with a tasting room only. The other type of winery includes larger wineries that are operating restaurants, wedding halls, retail shops, and other non-agricultural uses. Both types are permitted in residential districts due to the agricultural exemption.

Mr. Radachy explained that Madison Township is seeking to regulate larger wineries without impeding the tourism that wineries attract to the Township, and by respecting agriculture rights of property owners. The Township is redefining smaller wineries as viticulture and larger wineries as wineries. They are only seeking to regulate the non-agricultural uses of wineries, and are not proposing additional regulations for smaller wineries.

Staff recommends approval with the following modifications:

- Viticulture: The agriculture practice of growing grape vines and grapes. This includes making and selling of wine (as per ORC 519.21 A) and the production of other grape-related products including but not limited to jam, jelly, vinegar, oil and juice.
- Winery: A commercial business establishment that is accessory to the main use of the property is primarily used for the agricultural use of growing of grape vines and grapes, and the vinting and selling of wine as per ORC 519.21 (A). A winery may be allowed to have additional uses such as, but limited to a retail establishment (small), a restaurant (Table Service), live entertainment, microbrewery, microdistillery, and/or meeting/banquet facility. (Outdoor recreational activities are recommended to be removed from the definition and distillery is changed to microdistillery are changes to the definition by staff)
- Outdoor dining: A designated area adjacent to a dining establishment to be used for purposes of food and drink consumption, including table service.
- Live entertainment: Scheduled performances during which the performer(s) and audience are physically present at the time of the performance. Performances may include: theatrical productions, concerts, karaoke, literature readings, dancing, comedy, magicians, or DJs.
- Microbrewery: An establishment where beer, ale, etc. are brewed in conjunction with a bar, tavern, or restaurant use. The maximum brewing capacity shall not exceed 15,000 gallons per year.
- Microbrewery (Accessory): An agricultural, subordinate use to a Winery. This use brews beer, ale, etc. as an agriculture product and may have an on-site tasting room and retail space to sell the products. This use will be in conformance with ORC 519.01.

- Microdistillery: A facility that produces distilled spirits in quantities not to exceed 30,000 gallons per year. An on-site tasting room and retail space to sell products made on-site may be located within the building.
- Microdistillery (Accessory): An agricultural, subordinate use to a Winery. This use distills spirits as an agriculture product and may have an on-site tasting room and retail space to sell the products. This use will be in conformance with ORC 519.01.
- Tasting Room: A room attached to a microbrewery, distillery, or winery that allows patrons to consume wine, beer, and other alcoholic beverages produced on site.
- 104.1.7, 105.1.7, 122.2.12 and 122.5.6: Winery, whose buildings and structures are used primarily for vinting and selling of wine and that are located on land of which any part is being used for viticulture as permitted by Ohio law in conformance with ORC 519.21(A) and has a minimum of one acre of land planted with grape vines and grapes.

Winery may have accessory uses of retail establishment (small), a restaurant (Table Service), live entertainment, microbrewery, microdistillery, and/or meeting/banquet facility. But these uses shall be subordinated to the viticulture.

This use shall conform to off street parking requirements in Section 127.5.5 (Restaurant, Table Service). Signs shall be in conformance with the requirements of Section 128.2.1.

Staff went over the recommendations of the Land Use and Zoning Committee. The recommendations included new definitions for winery, viticulture, outdoor dining, live entertainment, microbrewery, microdistillery and tasting room. Staff stated that were two definitions of microbrewery and microdistillery to separate the agricultural accessory type from a future permitted use in a commercial or industrial district. Outdoor recreational activities are recommended to be removed from the definition and distillery is changed to microdistillery are changes to the definition.

Staff also stated that Land Use and Zoning Committee recommended a revision of the language in sections 104.17, 105.17, 122.2.12 and 122.5.6. The changes that were suggested reflected the new definitions being added and it referenced existing definitions. Outdoor recreational activities are recommended to be removed from the use regulation because they could include ATVs, Paintball, or Shooting Clubs to name a few possible uses.

Ms. Peccec and Mr. Brotzman discussed the definitions of winery, microbrewery and microdistillery in relation to the number of gallons brewed per year. They suggested that the Township research other definitions to better define the number of gallons permitted to be brewed and adopt their own referred limits and adopt their own definitions.

Ms. Peccec questioned the one acre requirement and asked if it is enough to be considered agriculture. Mr. Radachy stated that having a requirement of growing grapes on one acre in order to have additional uses should not infringe on agricultural exemption, as this is not regulating an agriculture issue. The law allows for selling of wine. The Township is seeking to regulate the non-agricultural uses of restaurants, meeting facilities, retail space, etc. The Township is within their rights because they are not regulating agriculture.

The Planning Commission was concerned about allowing microbreweries and microdistilleries as accessory uses without having a definition of accessory use. Staff stated that accessory meant subordinate to the main use, which was winery. The Planning Commission asked what does that really mean? 9,999 gallons of beer would be subordinate to 10,000 gallons of wine. They would like a better definition of what accessory use is to the main use of the property.

Ms. Pesec moved and Mr. Morse seconded the motion to accept the recommendation of the Land Use and Zoning Committee and recommend approval of a text amendment to Sections 101 by adding definitions for viticulture, and Sections 104, 105, and 122 by adding winery as accessory use with the following being included in the zoning text:

1. Define agricultural business and eliminate commercial business.
2. Provide gallon limit suggestions for winery, microdistillery and microbrewery.
3. Define accessory use.

All voted "Aye".

REPORTS OF SPECIAL COMMITTEES

There were no reports of special committees.

CORRESPONDENCE

There was no correspondence.

OLD BUSINESS

Mr. Zondag referred to the Kimball Estates Subdivision situation that Mr. Brotzman is dealing with and asked how we as planners could have avoided this. After some discussion Mr. Brotzman was asked to recuse himself from the meeting.

Mr. Radachy said that subdivision regulations are very clear and are commented and stipulated by all the County authorities including the Engineer, Stormwater, and Soil and Water District. This deals with all entities in the public domain.

Mr. DeLeone said there is no regulation or control over what the developer can do or has done on private property. This was a private matter concerning Mr. Brotzman and the Developer of Kimball. He said this body has no jurisdiction over this issue.

NEW BUSINESS

Mr. Radachy introduced Rick Walker who will be the Alternate for Commissioner Kevin Malacek. He was welcomed and introduced to the other Planning Commission members.

PUBLIC COMMENT

Anthony Torre of Sanford Street in Painesville introduced himself. He said that marriage was for one man and one woman and he objected to the legislation allowing gay people to marry each other.

ADJOURNMENT

Mr. Morse moved and Mr. Brotzman seconded the motion to adjourn the meeting.

All voted "Aye".

The meeting adjourned at 7:02 p.m.